



House of Representatives

General Assembly

File No. 280

February Session, 2006

Substitute House Bill No. 5290

House of Representatives, March 31, 2006

The Committee on Planning and Development reported through REP. WALLACE of the 109th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING NOTICE REQUIREMENTS FOR LAND USE APPLICATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-7d of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 (a) In all matters wherein a formal petition, application, request or
4 appeal must be submitted to a zoning commission, planning and
5 zoning commission or zoning board of appeals under this chapter, a
6 planning commission under chapter 126 or an inland wetlands agency
7 under chapter 440 and a hearing is required or otherwise held on such
8 petition, application, request or appeal, such hearing shall commence
9 within sixty-five days after receipt of such petition, application,
10 request or appeal and shall be completed within thirty-five days after
11 such hearing commences, unless a shorter period of time is required
12 under this chapter, chapter 126 or chapter 440. Notice of the hearing
13 shall be published in a newspaper having a general circulation in such

14 municipality where the land that is the subject of the hearing is located
15 at least twice, at intervals of not less than two days, the first not more
16 than fifteen days or less than ten days and the last not less than two
17 days before the date set for the hearing. In addition to such notice,
18 such commission, board or agency may, by regulation, provide for
19 additional notice. Such regulations shall include provisions that the
20 notice be either mailed to persons who own [or occupy] land that is
21 immediately adjacent to the land that is the subject of the hearing or be
22 provided by posting a sign on the land that is the subject of the
23 hearing. For purposes of such additional notice, (1) proof of mailing
24 shall be evidenced by a certificate of mailing, and (2) the person who
25 owns land shall be the owner indicated on the property tax map or on
26 the last-completed grand list as of the date such notice is mailed. All
27 applications and maps and documents relating thereto shall be open
28 for public inspection. At such hearing, any person or persons may
29 appear and be heard and may be represented by agent or by attorney.
30 All decisions on such matters shall be rendered within sixty-five days
31 after completion of such hearing, unless a shorter period of time is
32 required under this chapter, chapter 126 or chapter 440. The petitioner
33 or applicant may consent to one or more extensions of any period
34 specified in this subsection, provided the total extension of all such
35 periods shall not be for longer than sixty-five days, or may withdraw
36 such petition, application, request or appeal.

37 (b) Notwithstanding the provisions of subsection (a) of this section,
38 whenever the approval of a site plan is the only requirement to be met
39 or remaining to be met under the zoning regulations for any building,
40 use or structure, a decision on an application for approval of such site
41 plan shall be rendered within sixty-five days after receipt of such site
42 plan. Whenever a decision is to be made on an application for
43 subdivision approval under chapter 126 on which no hearing is held,
44 such decision shall be rendered within sixty-five days after receipt of
45 such application. Whenever a decision is to be made on an inland
46 wetlands and watercourses application under chapter 440 on which no
47 hearing is held, such decision shall be rendered within sixty-five days
48 after receipt of such application. The applicant may consent to one or

49 more extensions of such period, provided the total period of any such
50 extension or extensions shall not exceed sixty-five days or may
51 withdraw such plan or application.

52 (c) For purposes of subsection (a) or (b) of this section and section 7-
53 246a, the date of receipt of a petition, application, request or appeal
54 shall be the day of the next regularly scheduled meeting of such
55 commission, board or agency, immediately following the day of
56 submission to such commission, board or agency or its agent of such
57 petition, application, request or appeal or thirty-five days after such
58 submission, whichever is sooner. If the commission, board or agency
59 does not maintain an office with regular office hours, the office of the
60 clerk of the municipality shall act as the agent of such commission,
61 board or agency for the receipt of any petition, application, request or
62 appeal.

63 (d) The provisions of subsection (a) of this section shall not apply to
64 any action initiated by any zoning commission, planning commission
65 or planning and zoning commission regarding adoption or change of
66 any zoning regulation or boundary or any subdivision regulation.

67 (e) Notwithstanding the provisions of this section, if an application
68 involves an activity regulated pursuant to sections 22a-36 to 22a-45,
69 inclusive, and the time for a decision by a zoning commission or
70 planning and zoning commission established pursuant to this section
71 would elapse prior to the thirty-fifth day after a decision by the inland
72 wetlands agency, the time period for a decision shall be extended to
73 thirty-five days after the decision of such agency. The provisions of
74 this subsection shall not be construed to apply to any extension
75 consented to by an applicant or petitioner.

76 (f) The zoning commission, planning commission, zoning and
77 planning commission, zoning board of appeals or inland wetlands
78 agency shall notify the clerk of any adjoining municipality of the
79 pendency of any application, petition, appeal, request or plan
80 concerning any project on any site in which: (1) Any portion of the
81 property affected by a decision of such commission, board or agency is

82 within five hundred feet of the boundary of the adjoining
83 municipality; (2) a significant portion of the traffic to the completed
84 project on the site will use streets within the adjoining municipality to
85 enter or exit the site; (3) a significant portion of the sewer or water
86 drainage from the project on the site will flow through and
87 significantly impact the drainage or sewerage system within the
88 adjoining municipality; or (4) water runoff from the improved site will
89 impact streets or other municipal or private property within the
90 adjoining municipality. Such notice shall be made by certified mail,
91 return receipt requested, and shall be mailed within seven days of the
92 date of receipt of the application, petition, request or plan. Such
93 adjoining municipality may, through a representative, appear and be
94 heard at any hearing on any such application, petition, appeal, request
95 or plan.

96 (g) (1) Any zoning commission, planning commission or planning
97 and zoning commission initiating any action regarding adoption or
98 change of any zoning regulation or boundary or any subdivision
99 regulation or regarding the preparation or amendment of the plan of
100 conservation and development shall provide notice of such action in
101 accordance with this subsection in addition to any other notice
102 required under any provision of the general statutes.

103 (2) A zoning commission, planning commission or planning and
104 zoning commission shall establish a public notice registry of
105 landowners, electors and nonprofit organizations qualified as a tax-
106 exempt organizations under the provisions of Section 501(c) of the
107 Internal Revenue Code of 1986, or any subsequent corresponding
108 internal revenue code of the United States, as from time to time
109 amended, requesting notice under this subsection. Each municipality
110 shall annually notify residents of such registry and the process for
111 registering for notice under this subsection. The zoning commission,
112 planning commission or planning and zoning commission shall place
113 on such registry the names and addresses of any such landowner,
114 elector or organization upon written request of such landowner,
115 elector or organization. A landowner, elector or organization may

116 request such notice be sent by mail or by electronic mail. The name
117 and address of a landowner, elector or organization shall remain on
118 the public notice registry for a period of not less than three years and
119 thereafter the land owner, elector or organization may request to be
120 placed on the public notice registry for an additional three years.

121 (3) Any notice under this subsection shall be mailed or sent by
122 electronic mail to all landowners, electors and organizations in the
123 public notice registry not later than ten days prior to the
124 commencement of the public hearing on such action.

125 Sec. 2. Section 8-2m of the 2006 supplement to the general statutes is
126 repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:		
---	--	--

Section 1	<i>October 1, 2006</i>	8-7d
Sec. 2	<i>from passage</i>	Repealer section

PD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 07 \$	FY 08 \$
Various Municipalities	STATE MANDATE - Cost	Indeterminate	Indeterminate

Explanation

The bill requires zoning and planning commissions to establish and maintain a registry. It is anticipated that this requirement would increase costs to various municipalities. The exact impact would vary from town to town, but is anticipated that the additional costs are not currently budgeted for.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5290*****AN ACT CONCERNING NOTICE REQUIREMENTS FOR LAND USE APPLICATIONS.*****SUMMARY:**

This bill requires zoning and planning commissions to establish and maintain a registry through which they must notify residents about changes to land use regulations and plans the commissions propose. The law already requires commissions to publish newspaper notices when developers apply for approvals or request regulatory changes. It also allows them to provide additional notice to people directly affected by those proposals or requests. The bill changes the requirements for regulations under which commissions may provide the additional notice.

The bill eliminates the requirement that the Planning and Development Committee study how zoning commissions can use the definitions of lakes and other water bodies in their zoning ordinances. Current law requires the committee to annually report its findings to the legislature. The first report was due January 1, 2006.

EFFECTIVE DATE: October 1, 2006

NOTICE OF COMMISSION-INITIATED PROPOSALS***Applicable Actions***

The law requires land use commissions to notify the public when a developer proposes an action that must be presented at a public hearing. Current law exempts zoning and combined planning and zoning commissions from this requirement when they propose to adopt or change a zoning regulations or boundary. The bill extends this exemption to planning commissions and, when they propose to adopt or change a subdivision regulation, to combined planning and

zoning commissions.

But the bill also establishes a separate notification requirement for proposals commissions initiate. It requires zoning, planning, and combined planning and zoning commissions to establish a registry for notifying residents about these proposals. A zoning or, when it proposes to adopt or change a zoning regulation or zoning district boundary, a combined planning and zoning commission must use the registry.

A planning or combined planning and zoning commission must use the registry when it proposes to adopt or change a subdivision regulation. It must also notify residents when it proposes to adopt or amend the plan of conservation and development.

Establishing and Maintaining the Registry

The bill specifies how a commission must establish and maintain the notice registry. The registry is available to voters, landowners, and federal tax-exempt organizations. The commission must annually notify these parties about the registry and how to register for its notices.

The commission must register those parties that submitted written requests to have their names and addresses entered into the registry. Parties submitting the requests may ask the commission to send the notices to them by regular or electronic mail. A party's name and address remains in the registry for at least three years. At the end of this period, the party must ask the commission to reenter its name and address if it wants to be placed in the registry for another three-year period.

Sending Notices

The bill requires the commission to notify the parties in the registry by regular or electronic mail at least 10 days before it holds a public hearing on a proposal it initiates.

NOTICE OF APPLICANT-INITIATED PROPOSALS

The bill changes the requirement under which land use commissions may provide additional notice of proposals submitted by developers and other parties. Besides publishing newspaper notices about proposals from applicants, the law also allows commissions to notify those property owners the proposal directly affects. A commission that chooses to provide the additional notice must do so by regulation. The notice must go to people who own or occupy land adjacent to the property that is the subject of the hearing.

The bill specifies that the regulation must require the commission to provide the additional notice by mail or by posting a sign on the property that is the subject of the hearing. It limits the notice to people who own property that is “immediately” adjacent to the property subject of the hearing, eliminating notice to those who occupy it. The owners are those people listed as owners on the property tax map or the most recently completed grand list as of the notice’s mailing date. The commission can prove that it notified these people by a certificate of mailing.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 16 Nay 0 (03/17/2006)